

§ 648.141

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Administrator will review these recommendations and any recommendations of the Commission. After such review, the Regional Administrator will publish a proposed rule in the FEDERAL REGISTER by October 15 to implement a commercial quota and a recreational harvest limit, and additional management measures for the commercial fishery, and will publish a proposed rule in the FEDERAL REGISTER by February 15 to implement additional management measures for the recreational fishery, if he or she determines that such measures are necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. After considering public comment, the Regional Administrator will publish a final rule in the FEDERAL REGISTER to implement the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

(d) *Distribution of annual quota.* (1) Beginning January 1, 1998, a commercial quota will be allocated by quarterly periods based upon the following percentages:

QUARTERLY COMMERCIAL QUOTA SHARES	
Quarter	Share (percent)
January–March .....	38.64

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QUARTERLY COMMERCIAL QUOTA SHARES—  
Continued

Quarter	Share (percent)
April–June .....	29.26
July–September .....	12.33
October–December .....	19.77

(2) All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against that quarter's commercial quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3' N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters will be counted against the quota by the state in which it is landed pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission. The Regional Administrator will determine the date on which the quarterly quota will be harvested and the EEZ north of 35°15.3' N. lat. closed. The Regional Administrator will publish a notice in the FEDERAL REGISTER advising that, upon that date, no vessel may possess black sea bass in the EEZ north of 35°15.3' N. lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to landings of black sea bass during a closure pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission. Any overages of the commercial quarterly quota landed will be deducted from that quarter's quota for the following year.

**§ 648.141 Closure.**

*EEZ closure.* The Regional Administrator shall close the EEZ to fishing for black sea bass by commercial vessels issued a moratorium permit for the remainder of the calendar year by publishing notification in the FEDERAL REGISTER if he or she determines that the action or inaction of one or more states will cause the applicable target exploitation rate specified in § 648.140(a) to be exceeded. The Regional

Administrator may reopen the EEZ if earlier action or inaction by a state has been remedied by that state without causing the applicable specified target exploitation rate to be exceeded.

**§ 648.142 Time restrictions.**

Vessels that are not eligible for a moratorium permit under § 648.4(a)(6) and fishermen subject to the possession limit may fish for black sea bass from January 1 through December 31. Beginning in 1998, this time period may be adjusted pursuant to the procedures in § 648.140.

**§ 648.143 Minimum sizes.**

(a) The minimum size for black sea bass is 9 inches (22.9 cm) total length for all vessels issued a permit under § 648.4(a)(7) and for all other vessels which fish for or retain black sea bass in or from U.S. waters of the western Atlantic Ocean from 35°15.3' N. lat., the latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canada border. The minimum size may be adjusted for commercial and/or recreational vessels pursuant to the procedures in § 648.140.

(b) The minimum size in this section applies to the whole fish or any part of a fish found in possession (e.g., fillets), except that party or charter vessels possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if skin remains on the fillet and all other state requirements are met.

**§ 648.144 Gear restrictions.**

(a) *Trawl gear restrictions*—(1) *General.*

(i) Otter trawlers whose owners are issued a black sea bass moratorium permit and that land or possess 100 lb or more (45.4 kg or more) of black sea bass per trip, must fish with nets that have a minimum mesh size of 4.0 inches (10.2 cm) diamond or 3.5 inches (8.9 cm) square (inside measure) mesh applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or, for codends with less than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the center of the head rope, excluding any turtle excluder device extension.

(ii) Mesh sizes shall be measured pursuant to the procedure specified in § 648.104(a)(2).

(2) *Net modifications.* No vessel subject to this part shall use any device, gear, or material, including, but not limited to nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net; except that, one splitting strap and one bull rope (if present) consisting of line or rope no more than 3 inches (7.6 cm) in diameter may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the regulated portion of the net, and one rope no greater than 0.75 inches (1.9 cm) in diameter extending the length of the net from the belly to the terminus of the codend along the top, bottom, and each side of the net. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net that (in a hypothetical situation) will not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes shall not be considered part of the top of the regulated portion of a trawl net.

(3) *Mesh obstruction or constriction.* (i) A fishing vessel may not use any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (a)(2) of this section, that obstructs the meshes of the net in any manner, or otherwise causes the size of the meshes of the net while in use to diminish to a size smaller than the minimum established pursuant to paragraph (a)(1)(i) of this section.

(ii) No person on any vessel may possess or fish with a net capable of catching black sea bass in which the bars entering or exiting the knots twist around each other.

(4) *Stowage of nets.* Otter trawl vessels subject to the minimum mesh-size requirement of paragraph (a)(1)(i) of this section may not have "available for immediate use" any net or any piece of net that does not meet the minimum mesh size requirement, or any net, or any piece of net, with mesh that is rigged in a manner that is inconsistent